IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Sri Gopal @ Sharwan. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 567/2003
against the order dated 1-7-2003 passed
by the Additional Sessions Judge No.1,
Bikaner, in Criminal Revision No. 9/2003.

...

Date of Order: August 07, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. M.K. Garg & Mr. Niranjan Singh for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Pritam Solanki, for non-petitioner No.2.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has challenged the order dated 1-7-2003 passed by the Additional Sessions Judge No.1, Bikaner (for short, "the Revisional Court" hereinafter) in Criminal Revision No.9/2003, whereby the Revisional Court dismissed the revision petition filed by the petitioner and maintained the order dated 18-2-2003 passed by the Sub-Divisional Magistrate, Nokha (for short, "the Executive Magistrate" hereinafter) in Criminal Case No.1/2003, whereby the Executive Magistrate dropped the

proceedings under Section 145 of the Code.

I have heard learned counsel for the parties and perused the orders passed by the Revisional Court as well as the trial Court.

The Executive Magistrate dropped the proceedings under Section 145 of the Code on the ground that a civil suit in respect of the same property is pending between the same parties before the Civil Court and on 31-1-2003 an ad interim order of temporary injunction in respect of the property in dispute has been granted and, therefore, held that such parallel proceedings cannot be allowed to continue. The Revisional Court dismissed the revision petition filed by the petitioner and affirmed the finding of the Executive Magistrate. There is concurrent finding of both the courts below and, therefore, no case for interference is made out.

The criminal miscellaneous petition is dismissed. The stay petition also stands dismissed.

(H.R. PANWAR), J.

mcs